

**City of Chilliwack**

**Bylaw No. 5038**

**A bylaw to provide for the regulation of open burning.**

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WHEREAS the *Local Government Act* authorizes Council, by bylaw, to make regulations with respect to fire suppression and prevention and other classes of circumstances that may cause harm to persons or property;

AND WHEREAS the *Community Charter* authorizes Council to regulate, prohibit and impose requirements in relation to the protection and enhancement of the well-being of its community as related to the emission of smoke, sparks, dust, ash, soot, cinders, fumes or other effluvia that is liable to foul or contaminate the atmosphere;

AND WHEREAS the *Community Charter* authorizes Council to regulate, prohibit and impose requirements in relation to the protection of the natural environment;

NOW THEREFORE the Council of the City of Chilliwack in open meeting assembled enacts as follows:

**CITATION**

1. This Bylaw may be cited as **“Open Burning Bylaw 2021, No. 5038”**.

**REPEAL**

2. “Open Air Burning Regulation Bylaw 2008, No. 3511” and amendments thereto are hereby repealed.

**INTERPRETATION**

3. In this Bylaw:

“approved incinerator” means a noncombustible container placed upon a noncombustible base and fitted with a device or screen to contain sparks and flying debris;

“building” means any structure used or intended to be used for supporting or sheltering any use or occupancy;

“burning permit” means a document issued pursuant to this Bylaw authorizing a person to carry on an open burn under the specific conditions as outlined in this Bylaw;

“burning season” means the single two-month period of March to April, or October to November;

“Bylaw Enforcement Officer” means a person appointed by Council to enforce the bylaws of the City, or designate;

- “campfire” means a fire not exceeding 75cm in diameter and 75cm in height, contained within a fire pit and located on real property designated as a campground;
- “care facility” means a building or part thereof used by persons who require special care or treatment because of cognitive or physical limitations;
- “City” means the City of Chilliwack;
- “construction waste” means any material resulting from or produced by construction, renovation or repair of a building or structure;
- “demolition waste” means any abandoned building or the material resulting from the destruction or tearing down of any building, whether partial or complete;
- “Fire Chief” means the person appointed by Council as head of the Fire Department, or designate;
- “Fire Department” means the City of Chilliwack Fire Department;
- “Fire Department Officer” means Fire Chief, Assistant Fire Chief, company officer, fire prevention officer, training officer, public educator/fire inspector, or paid on-call officer;
- “highway” means a street, road, lane, bridge, viaduct and any other way open to the use of the public;
- “land clearing waste” means natural wood or vegetative waste generated by the clearing of land and originating from the subject property;
- “open burning” means any fire set outdoors and/or outside of a building;
- “Order” means any order, decision, requirement or direction given by the Fire Chief or designate;
- “parcel of land” means all land within the boundaries of the City of Chilliwack;
- “peat soils” means local peat deposits susceptible to underground burning as set out in Schedule “B”, attached hereto;
- “stream” includes any of the following: a watercourse, whether it usually contains water or not; a pond, lake, river, creek; brook, ditch, slough spring, or wetland;
- “urban growth boundary” means the area defined as such in the Official Community Plan, as amended; and,
- “ventilation index” means regional air venting information as forecasted daily by Environment Canada or the BC Ministry of Environment and Climate Change Strategy.

#### **BURNING PERMIT**

4. Unless prohibited pursuant to Section 9 of this Bylaw, no person shall set out, start or kindle open burning on a parcel of land unless the person holds a valid burning permit issued pursuant to this Bylaw.

5. Any person wishing to set out, start or kindle open burning shall first make application to the City for a burning permit and pay the prescribed fee as set out in Schedule “A”, attached hereto.
6. The burning permit holder shall have the burning permit available on site for review by a Fire Department Officer or Bylaw Enforcement Officer.
7. The burning permit holder is responsible for the control, extinguishment and any damages caused by the fire.
8. A burning permit is required for the purpose of burning indigenous agricultural vegetative debris to control disease, weeds, crops or stubble produced on real property designated as “Agricultural”. The agricultural vegetative debris must have originated from the parcel of land where the open burning is taking place.

#### **OPEN BURNING RESTRICTIONS**

9. No person shall set out, start or kindle open burning on any parcel of land designated as “Residential”, “Institutional”, “Commercial” or “Industrial” as set out in the City’s Zoning Bylaw, as amended.
10. A person who carries out open burning must only burn seasoned vegetative debris that originates from the parcel of land on which it is to be burned.
11. No person shall burn any of the following prohibited materials or use them as an accelerant:
  - (1) oil;
  - (2) rubber;
  - (3) plastics;
  - (4) tires;
  - (5) railway ties or other material containing creosote;
  - (6) wiring;
  - (7) insulation;
  - (8) petroleum products;
  - (9) biomedical waste;
  - (10) fertilizers, herbicides or pesticides;
  - (11) drywall;
  - (12) asphalt or asphalt products;
  - (13) paint or varnish;
  - (14) chemicals;

- (15) treated or painted wood products;
  - (16) fuel and lubricant containers;
  - (17) domestic waste;
  - (18) recyclables;
  - (19) construction or demolition waste;
  - (20) land clearing waste;
  - (21) stumps or vegetative debris larger than 50 centimetres in diameter;
  - (22) manure;
  - (23) animal carcasses and waste from animal slaughtering;
  - (24) batteries;
  - (25) carpets;
  - (26) fibreglass and other fibre-reinforced polymers;
  - (27) furniture and appliances;
  - (28) hazardous waste;
  - (29) polystyrene foam;
  - (30) tar paper; or,
  - (31) any other materials listed in the definition of “burning or incineration of prohibited material” in the *Waste Discharge Regulation*, as amended.
- 12.** No person shall burn any material in any manner which produces heavy or toxic smoke and/or fly ash which endangers the health, safety or welfare of persons or animals.
  - 13.** No person shall carry out open burning of a pile exceeding 2 metres in height and 3 metres in diameter.
  - 14.** No person shall carry out open burning of more than one pile at a time on the same property.
  - 15.** A person who carries out open burning must ensure that all reasonable efforts are taken to minimize the amount of smoke emitted by the open burning including, but not limited to, using the following strategies or techniques:
    - (1) minimizing any soil content that may be mixed in with the vegetative debris;
    - (2) constructing the pile in a way that maximizes the air flow through the vegetative debris; and,
    - (3) burning only seasoned vegetative debris.
  - 16.** No person shall set out, start, or kindle open burning except during the burning season as specified by the burning permit.

17. No person shall set out, start, or kindle open burning unless the ventilation index for the day of the burn is “good”.
18. No person shall set out, start or kindle open burning between the hours of 5:00 pm and 7:00 am daily.
19. No person shall set out, start or kindle open burning or allow or permit open burning to continue to burn during winds exceeding 25 kilometres per hour.
20. Despite any other provision in this Bylaw, no person shall continue to carry out open burning if the mixing of air and smoke is causing or is likely to cause the smoke emitted by the open burning to:
  - (1) negatively impact the owners or occupiers of properties within the urban growth boundary; or,
  - (2) significantly reduce visibility to a nearby airport or highway.

#### **CLEARANCES**

21. Subject to Section 22, no person who holds a burning permit shall set out, start or kindle open burning:
  - (1) Within 15 metres of:
    - i. a hedge;
    - ii. a fence;
    - iii. a structure;
    - iv. an on-site building;
    - v. a power line;
    - vi. a telephone line; and,
    - vii. a public utility.
  - (2) Within 30 metres of:
    - i. a highway; or,
    - ii. a stream.
  - (3) Within 100 metres of:
    - i. a neighbouring residential building; or,
    - ii. a neighbouring building that contains a business in which persons carry on the business during regular business hours.

- (4) Within 500 metres of the nearest property line of:
  - i. a school;
  - ii. a community care facility; or,
  - iii. a hospital.
  
- 22. If an approved incinerator is used, the setback from the infrastructure listed in Section 21(1) of this Bylaw may be reduced from 15 metres to 6 metres. All other setbacks specified in Section 21 shall remain unchanged.
  
- 23. If the location where burning is to take place is within an area of known peat soils identified in Schedule “B”, attached hereto, no burning shall take place until the person holding the burning permit ensures there is an adequate barrier between the base of the burning pile and underlying peat soils to prevent ignition of the underground peat deposits. The barrier must be comprised of a minimum thickness of 600 millimetres of inorganic soil or an equivalent barrier.

#### **MEANS TO CONTROL**

- 24. Every person to whom a burning permit has been issued must:
  - (1) place and keep a person, at all times, in charge and be present while open burning and until the open burning is completely extinguished and will provide such person with sufficient and adequate fire fighting appliances and equipment as is required in order to prevent open burning from getting beyond control or causing damage or becoming a danger to life and property; and,
  - (2) ensure the person attending the open burning is over the age of 18.

#### **RESTRICTION OR CANCELLATION OF PERMITS**

- 25. The Fire Chief or any other Fire Department Officer or Bylaw Enforcement Officer may require any person to extinguish open burning which has been set out, started or kindled in breach of any provision, condition or restriction of this Bylaw or any burning permit issued pursuant to this Bylaw.
  
- 26. Where, in the opinion of the Fire Chief, hazardous open burning conditions develop or exist, or when an Air Quality Advisory or Bulletin is issued by Metro Vancouver, Fraser Valley Regional District or BC Ministry of Environment and Climate Change Strategy, or in the event of a public health emergency, the Fire Chief may, at any time, make an Order cancelling or suspending all or any permits issued pursuant to this Bylaw, or attaching to all or any such permits any conditions or restrictions as the Fire Chief may deem necessary.
  
- 27. An Order made pursuant to Section 26 of this Bylaw shall be for such time as specified in the Order and shall become effective when it has been advertised on the City’s website for 24 hours.

## EXEMPTIONS

28. This Bylaw does not apply to the normal use of charcoal, gas fired or electric grills and barbecues for the purpose of cooking food or approved gas fuelled outdoor fireplaces or heaters.
29. This Bylaw does not apply to a campfire in a designated campground within the City of Chilliwack, but these campfires are subject to restrictions and/or prohibition at the discretion of the Fire Chief due to hazardous fire conditions or poor smoke dispersion.
30. This Bylaw does not apply to open burning set for the purpose of Fire Department “Live Fire” training exercises.
31. Diseased agricultural vegetative debris that meets the requirements and setbacks stipulated in Sections 24 and 25 of the *Open Burning Smoke Control Regulation* does not need to be seasoned and is exempt from the setback requirements in Sections 21(3) and 21(4) of this Bylaw.

## LIABILITIES FOR DAMAGES

32. This Bylaw shall not be construed to hold the City or its authorized agents responsible for any damage to persons or property by reason of a burning permit issued as herein provided or an inspection authorized by this Bylaw.

## OFFENCE AND PENALTY

33. Every person who violates or breaches, or who causes or allows to be violated or breached, any of the provisions of this Bylaw shall be guilty of an offence against this Bylaw and each day that such violation is caused or allowed to continue shall constitute a separate offence.
34. Any person guilty of an infraction of this Bylaw shall be liable upon summary conviction to a fine or to imprisonment, or to both such fine and imprisonment, not exceeding the maximum allowed by the *Offence Act*, as amended.
35. Any fee or charge authorized by this Bylaw may be entered upon the Assessment Roll as monies owing against the property and any such fee or charge remaining unpaid on December 31 of that year will be added to and form part of the taxes payable in respect of the property as taxes in arrears.
36. Any person who contravenes any of the provisions of this Bylaw, in addition to any other penalty provided for pursuant to this Bylaw, shall be liable to the City for the cost of fighting any fire which causes damage to lands or property as a result of such contravention, and the same may be recovered by action in any Court of competent jurisdiction at suit of the City.

**SEVERABILITY**

37. If any portion of this Bylaw is held invalid by a Court of competent jurisdiction, then that invalid portion shall be severed and the remainder of this Bylaw shall be deemed to have been adopted without the severed portion.

Received first and second reading on the 2<sup>nd</sup> of February, 2021.

Received third reading on the 2<sup>nd</sup> of February, 2021.

Received adoption on the 16<sup>th</sup> of February, 2021.

“Ken Popove”

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Mayor

“Jennifer Kooistra”

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Acting Corporate Officer

**Schedule “A”**

**Open Burning Permit Fee Schedule**

- 1. General Burning Permit: \$35.00**

Required for all open burning, where and when permitted in accordance with this Bylaw, and is valid for a single two-month burning period only.

Schedule “B”

Map of Peat Soils

CITY  
OF  
CHILLIWACK

KNOWN PEAT SOIL AREAS

Property owners in these areas must ensure there is a minimum 600mm (2ft) layer of inorganic soil or equivalent fire barrier between the base of the materials to be burned and any underlying peat.

 KNOWN PEAT SOILS

2000 0 2000  
Meters

